

To Our Clients

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Just Say No Resurrected

The Universal Foods decision today breathes life back into the Just Say No Response to a hostile tender offer. In a lengthy and very well reasoned opinion the Court held that the directors of the target could reject an offer the directors had determined to be inadequate -- based on their own evaluation of the company and without the benefit of an inadequacy opinion from an investment banker -- and frustrate the tender offer by refusing to redeem the target's poison pill. In reaching its decision the Court made specific reference to the directors' belief as to the long-term value of the target's stock.

While Share Price Protection Preferred Stock was not involved in the Universal Foods case, the decision is a strong precedent for the argument that the directors of a company which has issued Protect Preferred may refuse to redeem a pill to permit a tender offer at a price less than the target price of the Protect Preferred.

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